

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

DOT-00 INR-10 NSAE-00 RSC-01 FAA-00 L-03 SS-20 NSC-07

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DRAFTED BY EB/AN:PIGLASOE:DAP

APPROVED BY EB/AN:MHSTYLES

EB/TT - MR. MEADOWS

CAB - MR. MURPHY

EUR/SPP - MR. MC COWN

L/EB - MR. GAITHER (PARA 3)

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P 192207Z MAR 74

FM SECSTATE WASHDC

TO AMEMBASSY MADRID PRIORITY

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E.O. 11652: N/A

TAGS: ETRN, SP

SUBJECT: CIVAIR - SPANISH PROBLEMS WITH US AIRLINE SCHED-
ULES

REF: MADRID 1710, MADRID 1734

1. EMBASSY SHOULD TRANSMIT ASAP NOTE OR AIDE MEMOIRE TOMFA
IN RESPONSE TO MFA'S MARCH 14 NOTE. SUBSTANTIVE POR-
TIONS OF NOTE WOULD BE ALONG FOLLOWING LINES:

2. USG HAS TAKEN NOTE OF THE ISSUES RAISED IN THE MFA NOTE
OF MARCH , WHICH REQUESTS CONSULTATIONS IN ACCORDANCE
WITH SECTION 3B OF THE NOVEMBER 27, 1972 MEMORANDUM OF
CONSULTATIONS.

3. CONCERNING THE ISSUE OF THE CHANGE OF GAUGE WHICH
TRANS WORLD AIRLINES PLANS TO MAKE AT MADRID ON ITS NEW
SERVICE TO MALAGA TO BEGIN APRIL 5, THE EMBASSY HAS BEEN
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INSTRUCTED TO MAKE THE FOLLOWING POINTS:

A. THE CHANGE OF GAUGE LANGUAGE CONTAINED IN SECTION 7 OF THE NOVEMBER 27, 1972, MEMORANDUM OF CONSULTATION REPRESENTS NO DEPARTURES FROM CUSTOMARY AVIATION PRACTICE AND WAS INCLUDED IN THE MEMORANDUM ONLY AT SPANISH REQUEST TO ASSURE THAT US AIRLINE OPERATIONS WOULD NOT VARY FROM SUCH PRACTICE. THERE IS NO SUCH INTENTION ON THE PART OF TWA.

B. BOTH GENERALLY ACCEPTED PRACTICE AND THE LANGUAGE OF SECTION 7 MAKE IT QUITE CLEAR THAT THE CHANGE OF GAUGE CONCEPT APPLIES AT WHATEVER POINT ALONG THE ROUTE THE ACTUAL CHANGE TAKES PLACE. THIS IS MADE CLEAR BY THE LANGUAGE OF PARAGRAPH 7 WHICH SPECIFIES THAT THE CHANGE OF GAUGE CONTEMPLATED IS "WITH RESPECT TO AIRCRAFT UTILIZED ON THE ROUTES INCLUDED IN THE ROUTE SCHEDULE." THERE IS NO DISPUTE THAT MADRID AND MALAGA ARE ON "THE ROUTE" UTILIZED BY TWA. THE FACT THAT THEY ARE COTERMINALS IS, IN THE US VIEW, NOT RELEVANT TO THE CHANGE OF GAUGE ISSUE. FURTHERMORE, THE USE OF THE TERM "BEYOND" IN SECTION 7 REFERS ONLY TO SERVICE SUBSEQUENT TO THE PHYSICAL CHANGE OF AIRCRAFT, NOT TO POINTS BEYOND THE TERRITORY OF THE CONTRACTING PARTY. IT IS FOR THIS REASON THAT THE TERM WAS PUT INTO QUOTATION MARKS (IN BOTH THE ENGLISH AND SPANISH VERSIONS OF THE MEMORANDUM) IN ORDER TO DISTINGUISH ITS USE IN THIS SENSE FROM THE USE ELSEWHERE IN THE AGREEMENT AND MEMORANDUM TO MEAN "BEYOND POINTS."

C. IT IS THE CONVICTION OF THE US THAT TWA'S PLANNED CHANGE OF GAUGE IN MADRID ON ITS TWICE WEEKLY SERVICE TO MALAGA IS COMPLETELY CONSISTENT WITH THE SPIRIT AND PRECISE TERMS OF BOTH SUBPARAGRAPHS OF SECTION 7 OF THE MEMORANDUM OF CONSULTATION. THE UNITED STATES THEREFORE URGES THE GOS TO RECONSIDER ITS ADVICE TO TWA CONCERNING THIS ASPECT OF ITS SUMMER SCHEDULES AND TO PERMIT THE PLANNED CHANGE OF GAUGE ON THE MALAGA SERVICE TO PROCEED AS IT PROPERLY SHOULD.

4. CONCERNING THE ISSUE OF THE SCHEDULES OF PAN AMERICAN WORLD AIRWAYS, THE US IS NOT COMPLETELY CLEAR AS TO WHY LIMITED OFFICIAL USE

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THE GOS HAS REQUESTED CONSULTATIONS. THE ONLY INCREASE IN PAN AMERICAN'S SCHEDULES IN RELATION TO THE SCHEDULES IT OPERATED LAST SUMMER IS A NOMINAL INCREASE IN CAPACITY IN THE MIAMI-SAN JUAN-MADRID MARKET FROM FOUR FREQUENCIES PER WEEK TO FIVE. IT WOULD APPEAR FROM THE LOAD FACTORS BEING EXPERIENCED BY PAN AMERICAN AND THE HIGH LEVEL OF SERVICE PROVIDED BY IBERIA BETWEEN PUERTO RICO AND SPAIN THAT THERE IS A FULLY ADEQUATE DEMAND FOR THE

PLANNED SERVICES AND THAT THE PROPOSED CAPACITY APPEARS COMPLETELY APPROPRIATE.

5. NONETHELESS, IF, AFTER REVIEWING THE MATTER, THE GOS STILL WISHES TO CONSULT ON THE SCHEDULES OF PAN AMERICAN, THE US IS READY TO DO SO IN ACCORDANCE WITH ITS COMMITMENTS AND WOULD BE HAPPY TO RECEIVE A SPANISH DELEGATION IN WASHINGTON DURING THE LAST WEEK IN MARCH.

6. ON A SEPARATE SUBJECT, IN VIEW OF THE IMPOSSIBILITY OF A US DELEGATION TRAVELING TO SPAIN DURING THE FIRST OR LAST WEEKS IN APRIL TO CONDUCT DISCUSSIONS ON CHARTER MATTERS AND THE INABILITY OF THE SPANISH SIDE TO CONDUCT SUCH TALKS IN MADRID DURING THE WEEK OF APRIL 22, THE US SUGGESTS THAT, IF THE SPANISH AUTHORITIES DO WISH TO CONDUCT CONSULTATIONS ON PLANNED US AIRLINE CAPACITY, THE GOS MIGHT CONSIDER UTILIZING THE OCCASION AND HAVE ITS DELEGATION REMAIN IN WASHINGTON DURING THE FIRST WEEK OR SO IN APRIL TO CONDUCT SEPARATE DISCUSSIONS ON CHARTER MATTERS OF MUTUAL INTEREST. KISSINGER

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